

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:09-CR-216-FL**

| | | |
|---------------------------------|---|-------------------------------|
| UNITED STATES OF AMERICA |) | |
| |) | |
| v. |) | DEFENDANT’S MOTION |
| |) | FOR DOWNWARD DEPARTURE |
| ZIYAD YAGHI, |) | OR VARIANCE |
| Defendant. |) | |

COMES NOW, the Defendant, Ziyad Yaghi, by and through his undersigned counsel of record, and moves this Honorable Court to depart or grant a variance.

In support of this Motion, the Defendant would incorporate the factors outlined in the Sentencing Memorandum and Statement of Facts filed contemporaneously herewith.

WHEREFORE, the Defendant prays the court to depart from the guidelines and render a sentence below the guideline range.

Respectfully submitted this the 3rd day of January, 2012.

/s/James M. Ayers II
Attorney for Defendant Ziyad Yaghi
Ayers & Haidt, P.A.
307 Metcalf Street
Post Office Box 1544
New Bern, North Carolina 28563
Telephone: (252) 638-2955
Facsimile: (252) 638-3293
jimayers2@embarqmail.com
State Bar No. 18085
Criminal – Appointed

CERTIFICATE OF SERVICE

This is to certify that the undersigned has personally served a copy of the forgoing Motion for Downward Departure or Variance, according to the applicable Civil Procedure Rules of this Court, to wit:

 X CM/ECF (U.S. District Courts; U.S. Courts of Appeal)

Date: January 3, 2012

/s/James M. Ayers II
Attorney for Defendant Ziyad Yaghi
Ayers & Haidt, P.A.
307 Metcalf Street
Post Office Box 1544
New Bern, North Carolina 28563
Telephone: (252) 638-2955
Facsimile: (252) 638-3293
jimayers2@embarqmail.com
State Bar No. 18085
Criminal - Appointed

TO: John Bowler
U.S. Attorney's Office
310 New Bern Ave.
Suite 800
Raleigh, NC 27601-27601
john.s.bowler@usdoj.gov

R. Daniel Boyce
Nexsen Pruet, PLLC
4141 Parklake Avenue, Suite 200
Raleigh, NC 27612
dboyce@nexsenpruet.com

Debra C. Graves
Federal Public Defender
150 Fayetteville St. Mall
Suite 450
Raleigh, NC 27601-8005
debra_graves@fd.org

Jason Cowley
U.S. Attorney's Office
310 New Bern Avenue
Suite 800
Raleigh, NC 27601-1461
jason.cowley@usdoj.gov

Rosemary Godwin
Federal Public Defender
150 Fayetteville St. Mall
Suite 450
Raleigh, NC 27601-2919
rosemary_godwin@fd.org

Myron T. Hill, Jr.
Browning & Hill
200 E. Fourth Street
Greenville, NC 27835
mhill@browning-hill.com

Jason M. Kellhofer
US Department of Justice
950 Pennsylvania Avenue NW
Room 2720
Washington, DC 20530
jason.kellhofer@usdoj.gov

Barbara D. Kocher
U.S. Attorney's Office
310 New Bern Aveue
Suite 800
Raleigh, NC 27601
barb.kocher@usdoj.gov

Robert J. McAfee
McAfee Law, P.A.
P.O. Box 905
New Bern, NC 28563
rjm@mcafee-law.com

Paul K. Sun, Jr.
Ellis & Winters
PO Box 33550
Raleigh, NC 27636-3550
Paul.Sun@elliswinters.com

Joseph E. Zeszotarski, Jr
Poyner & Spruill
P.O. Box 10096
Raleigh, NC 27605
jeszotarski@poynerspruill.com